

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

CSX TRANSPORTATION, INC.,)
individually and on behalf of NORFOLK)
& PORTSMOUTH BELT LINE)
RAILROAD COMPANY,)
)
 Plaintiff,)
)
v.) **No. 2:18-cv-530-MSD-LRL**
)
NORFOLK SOUTHERN RAILWAY)
COMPANY, *et al.*,)
)
 Defendants.)

**DEFENDANT NORFOLK SOUTHERN RAILWAY COMPANY'S
MOTION TO COMPEL THE PRODUCTION OF
DOCUMENTS FROM PLAINTIFF CSX TRANSPORTATION, INC.**

Pursuant to Rule 37(a) of the Federal Rules of Civil Procedure and Rules 37(B) and 7(F) of the Local Rules of the U.S. District Court for the Eastern District of Virginia, Defendant Norfolk Southern Railway Company ("NSR"), by counsel, hereby moves this Court for an Order compelling Plaintiff CSX Transportation, Inc. ("CSXT") to produce documents it has improperly redacted or withheld as privileged. In support of this Motion, NSR refers this Court to its Memorandum in Support, filed contemporaneously with this Motion.

In accordance with Local Rule 37(E), NSR has made a good faith effort to resolve the issues raised in this Motion.

WHEREFORE, for the reasons stated in the accompanying Memorandum in Support of this Motion to Compel, NSR respectfully requests the Court:

1. grant its Motion and order CSXT to produce the emails at issue without redaction within 14 days;

2. allow Defendants to depose Steven Armbrust on all emails that have been produced and/or unredacted since his deposition on March 11, 2020, and emails that are produced and/or unredacted pursuant to this Motion;¹ and
3. award such further relief that the Court deems necessary and proper.

Date: May 13, 2020

Respectfully submitted,

NORFOLK SOUTHERN RAILWAY COMPANY

/s/ Michael E. Lacy

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¹ Counsel for CSXT abruptly ended Armbrust deposition in the middle of an examination by counsel for Cannon Moss, who CSXT subsequently agreed to dismiss as a party. See Armbrust Dep. 312:15 - 313:5. Counsel for NSR and NPBL reserved the right to reopen the deposition of Armbrust if CSXT subsequently produced and/or unredacted emails involving Armbrust. *Id.* at 274:11-18; 300:9-12.

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CERTIFICATE OF SERVICE

I hereby certify that on May 13, 2020, I electronically filed a copy of the foregoing with the Clerk of Court using the CM/ECF system, which sent a notification of such filing (NEF) to the registered participants as identified on the NEF to receive electronic service, including:

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